
Filing a Discrimination Complaint with DOJ

A person who believes that he or she is being or has been discriminated against because of HIV/AIDS by a public accommodation or a State or local government may file a complaint with the U.S. Department of Justice (DOJ). Individuals are also entitled to bring private lawsuits under the ADA.

To file a complaint with DOJ, visit www.ada.gov/HIV.

Complaints may also be sent as follows:

By Mail: U.S. Department of Justice

Civil Rights Division
Disability Rights Section
950 Pennsylvania Ave., NW—NYA
Washington, D.C. 20530

By Fax: (202) 307-1197

HOUSING

The Fair Housing Act (FHA) prohibits discrimination against individuals with disabilities, including HIV/AIDS. The FHA prohibits discrimination in the sale or rental of housing (such as apartments, houses, mobile homes, nursing homes, assisted living centers, group homes, student housing, and homeless shelters), and in other residential real estate transactions.

Filing a Housing Discrimination Complaint with HUD

For complaints concerning housing-related discrimination, contact the U.S. Department of Housing and Urban Development (HUD) at 800-669-9777 (Voice) or 800-927-9275 (TTY) or visit www.hud.gov/complaints.

ADA INFORMATION LINE

For more information on the ADA and the rights of persons living with HIV/AIDS, or to request this publication in an alternative format, call our ADA Information Line Monday through Wednesday, Friday 9:30 a.m. — 5:30 p.m., Thursday 12:30 p.m. — 5:30 p.m. (Eastern Time) to speak with an ADA specialist. Calls are confidential.

800-514-0301 (Voice)

800-514-0383 (TTY)



ADDITIONAL RESOURCES

For advice to employers on how to reasonably accommodate individuals with disabilities in the workplace, contact the Job Accommodation Network (JAN) at 800-526-7234 (Voice) or 877-781-9403 (TTY) or visit www.askjan.org.

For more Federal government resources and information on HIV/AIDS, including about prevention, testing, treatment, research, and the National HIV/AIDS Strategy, visit www.hiv.gov.



U.S. Department of Justice
Civil Rights Division
Disability Rights Section

Protecting the Rights of Persons Living with HIV/AIDS



FIGHTING DISCRIMINATION

The Americans with Disabilities Act (ADA) guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications. People with HIV/AIDS, both symptomatic and asymptomatic, are protected by the ADA. The ADA also protects persons who are discriminated against because they have a record of or are regarded as having HIV/AIDS, or they have a known association or relationship with an individual who has HIV/AIDS.

EMPLOYMENT

The ADA prohibits disability discrimination by all public employers and all private employers with 15 or more employees. Discrimination against qualified individuals with disabilities (i.e., an individual who can perform the essential functions of the job with or without reasonable accommodations) is prohibited in hiring, firing, application procedures, job assignments, reassignments, training, benefits, and promotions.

Reasonable Accommodations

Employers must provide reasonable accommodations to the known disability of any qualified individual, unless doing so would impose an undue hardship. A reasonable accommodation is any modification or adjustment to a job, the job application process, or the work environment that will enable a qualified applicant or employee with a disability to perform the essential functions of the job, participate in the application process, or enjoy the benefits and privileges of employment. An undue hardship is defined as significant difficulty or expense.

Filing an Employment Discrimination Complaint with the EEOC

An applicant or employee who believes that he or she has been subjected to discrimination on the basis of having HIV/AIDS should file a complaint with the Equal Employment Opportunity Commission (EEOC) within 180 days (or in many states 300 days) of when the discrimination occurred.

For technical assistance on employment discrimination or to file a complaint of employment discrimination, contact the EEOC at 800-669-4000 (Voice) or 800-669-6820 (TTY) or visit www.eeoc.gov.

BUSINESS AND NONPROFIT SERVICE ORGANIZATIONS

The ADA prohibits discrimination by public accommodations, which include businesses and nonprofit service organizations that provide goods or services to the public, such as restaurants, hotels, theaters, doctors' offices, dentists' offices, hospitals, retail stores, health clubs, museums, libraries, private schools, and day care centers.

Public accommodations generally:

- *Must* give a person with a disability an equal opportunity to use or enjoy the entity's goods, services, and facilities.
- *Must* make reasonable modifications in policies, practices, or procedures when necessary to afford goods and services to individuals with disabilities, unless the public accommodation can demonstrate that making such modifications would fundamentally alter the nature of the goods and services.
- *Must* provide auxiliary aids and services when necessary to ensure that communication with individuals with disabilities is as effective as with others, unless the public accommodation can demonstrate that providing such aids and services would fundamentally alter the nature of the goods and services being offered or would result in an undue burden.
- *Must* ensure that no individual with a disability is screened out, denied the opportunity to participate, segregated, or otherwise treated differently than other individuals, unless doing so is necessary for the provision of goods or services or necessary for safe operation.

STATE AND LOCAL GOVERNMENTS

The ADA applies to all State and local government programs, services, and activities. State and local governments include a wide range of entities and

services, such as public schools, county hospitals, emergency responders, and county recreation centers. State and local governments generally must reasonably modify their policies, practices, and procedures when necessary to avoid discrimination unless doing so would fundamentally alter the service, program, or activity; must provide auxiliary aids and services when necessary to ensure that communication with people with disabilities is as effective as with others, unless doing so would fundamentally alter the nature of the program, service or activity or would result in an undue burden; and must make programs, services, and activities equally available to individuals with disabilities.

Health Care Providers

A health care provider, whether public or private:

- *May not* generally refer a patient with HIV/AIDS to another provider simply because the person has HIV/AIDS.
- *May* refer a person who requests or requires treatment or services outside the provider's area of expertise and such referrals are routinely made.

Exclusion of Individuals with HIV/AIDS

A public or private entity may not exclude a person with HIV/AIDS from participation in an activity if that individual's participation would result in a "direct threat" to the health or safety of others. A direct threat is a significant risk to the health or safety of others that cannot be eliminated by a modification to policies, practices, or procedures or by the provision of appropriate auxiliary aids or services. The determination that a person poses a direct threat to the health or safety of others must be an individualized assessment based on reasonable judgment that relies on current medical knowledge or the best available objective evidence.

Entities may also impose necessary legitimate safety requirements, but must ensure that such requirements are based on actual risks, not on mere speculation, stereotypes, or generalizations about a person with HIV or AIDS.

The Americans with Disabilities Act authorizes the Department of Justice (the Department) to provide technical assistance to individuals and entities that have rights or responsibilities under the Act. This document provides informal guidance to assist you in understanding the ADA and the Department's regulations.

This guidance document is not intended to be a final agency action, has no legally binding effect, and may be rescinded or modified in the Department's complete discretion, in accordance with applicable laws. The Department's guidance documents, including this guidance, do not establish legally enforceable responsibilities beyond what is required by the terms of the applicable statutes, regulations, or binding judicial precedent.